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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/716,257
Filing Date: November 18, 2003
Appellant(s): AARON ET AL.

Philip S. Lyren
Reg. # 40,709
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09 January 2008 appealing from the Office action mailed 09 August 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,709,873	Smith et al.	12-1987
6,889,927	Gavit et al.	05-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 9, 10, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gavitt et al. (US 6,889,927) in view of Smith et al. (US 4,709,873).

In regard to claims 1 and 3, Gavitt et al. teaches a reel 30 comprising:

a hub 40;

a pair of flanges 50/70 separated by the hub 40;

a guide member 46 is positionable with respect to the hub such that the hub 40 and the guide member 46 cooperate 44/46/40 to form a surface for receiving a magnetic tape; and

a securing mechanism [74/45 ("receiving portion") and 102/104/106 ("engagement portion")] formed in the pair of flanges (see Figures 5 and 10a-11a) and having a resilient member 102/104/106 ("engagement portion") moveable for releasably securing a position of the guide member 46 with respect to the hub.

The engagement portion 104 is on the guide member 46 and the receiving portions 74/75 are on the flanges. That the engagement portion is instead on the flange and the receiving portion on the guide member as shown by Fig. 3 of Smith et al. would have been obvious to a person

having ordinary skill in the art at the time the invention was made merely involving a shift in the location of the parts, all functioning in the same manner. Smith et al. also shows a different embodiment in Figs. 1-2 in which a spring tab 110 is used for the same purpose. It would have been obvious to a person having ordinary skill in the art to alternatively provide the apparatus of Gavit et al. with a spring tab as taught by Smith et al. to releasably secure the guide member.

In regard to claim 2, Gavit as modified by Smith teaches at least one flange portion coupled to the hub (Fig. 5, Gavit), wherein the securing mechanism is coupled to the at least one flange portion (see Figures 5 and 10a-11a, Gavit).

In regard to claim 4, Gavit as modified by Smith teaches wherein the securing mechanism locks the guide member and the hub to a first position (Fig. 9a) and unlocks the guide member and the hub to a second position (Fig. 9a – 10b).

In regard to claim 9, all recited structures are present, all recited functions such as windable in first and second directions are deemed inherent to magnetic tape winding reels.

(10) Response to Argument

A. Claims 1-4 are unpatentable over Gavit et al. in view of Smith et al.

1. The Securing mechanism of Gavit et al. is formed in the receiver block and the flange, as flange is defined by the Appellant.

Flange is defined as a disc shaped member 28 separated by the hub 30. Spec. at Paragraph 12. The hub 30 is show by dashed line in Figure 1. The hub 30 has an arcuate region 32 and a flat region 34. As seen in Figure 1, securing mechanism 44 is located in the pair of

flanges 28 (as claim in claim 1). Therefore, the flange of the present invention includes the portion of the disc 28 that extends from the hub 30, including the region extending from the flat region 34 (Fig. 1). The Appellant contends that securing mechanism of Gavitt is not formed in the pair of flanges 50/70 but rather in the hub 40. Br. at 10. Gavitt shows hub 40 and flange 50 in Figure 10b having an area 44 for receiving the receiver block 46 equivalent to the flat region 34 receiving receiver block 38 of the present invent. Therefore, the flange of Gavitt, as defined by the Appellant's specification, includes the region extending from the slot 44. Based on Appellant's definition of flange, Figure 10a of Gavitt clearly shows the 74/45 "receiving portion" 74/75 in the flange, and Figure 11a shows the "engagement portion" 102/104/106 formed in the pair of flanges. Smith is relied on solely to teach the engagement portion is instead on the flange and the receiving portion on the guide member (Fig. 3, Smith et al.).

2. Appellant misconstrues Final Office rejection under 35 U.S.C. 103(a) as being unpatentable over Gavitt et al. in view of Smith et al.

The Appellant contends that the Examiner rejected the claimed "resilient securing mechanism" by citing the receiving portions 74/75 of Gavitt. Br. at 11. However, as clearly articulated in the Final Office action, the Examiner stated Gavitt et al. discloses a "resilient securing mechanism 74, 75 ("receiving portions") and 102/104 ("engagement portion") which is coupled to both the hub and the flanges." Final at 2. Gavitt et al.'s discloses securing mechanism is made up of both the receiving portion and the engagement portion. The Examiners position is evident by the combination of Smith et al. that teaches the engagement portion is located on the flange and the receiving portion on the guide member (Fig. 3, Smith et al.). The Appellant further argues that Smith et al. shows its resilient member (leaf spring) located in the cavity of

the hub and not the flange. However, Appellant's definition of flange notwithstanding, Smith is relined on solely to teach the engagement portion is instead on the flange and the receiving portion on the guide member (Fig. 3, Smith et al.).

B. Claims 9, 10, 12 and 14 are unpatentable over Gavitt et al. in view of Smith et al.

The Appellant contends that the Examiner has ignored the recitation in claim 9 that the tape is windable onto the hub and guide member in a first and second direction of rotation. Br. at. 11. However, the Examiner addressed this limitation on page 2 of the Final Office action dated 09 August 2007, on page 2 of the Non-Final Office action dated 18 April 2007, and on page 2 of the Final Office Action dated 14 December 2006. In all three of the office actions, the Examiner stated that all recited functions such as windable in first and second directions are deemed inherent to magnetic tape winding reels. It should be noted that the Appellant is raising this argument for the first time on appeal.

Appellant last argues that claim 9 recites the securing mechanism is formed on the flanges. The Appellant argues this limitation in connection with independent claims 1 and 3. Br. at 12. See response to argument in section A(1) above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Art Unit: 3654

Respectfully submitted,

Evan Langdon

/Evan H Langdon/

Primary Examiner, Art Unit 3654

Conferees:

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